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By: **Delegate James**  
Introduced and read first time: February 7, 2003  
Assigned to: Environmental Matters

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Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 18, 2003

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CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Maryland Agricultural Land Preservation Foundation - Easements - Lot**  
3 **Exclusions and Allowable Economic Activity**

4 FOR the purpose of clarifying the range of uses and activities allowed on property  
5 with an agricultural land preservation easement; reducing the number of  
6 certain lots allowed to be excluded from an agricultural land preservation  
7 easement; authorizing a certain number of unrestricted lots to be excluded from  
8 an agricultural land preservation easement; establishing certain criteria and  
9 conditions for excluding an unrestricted lot from an agricultural land  
10 preservation easement; authorizing the exclusion of certain existing dwellings  
11 as a certain lot; and generally relating to the Maryland Agricultural Land  
12 Preservation Foundation.

13 BY repealing and reenacting, with amendments,  
14 Article - Agriculture  
15 Section 2-513  
16 Annotated Code of Maryland  
17 (1999 Replacement Volume and 2002 Supplement)

18 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
19 MARYLAND, That the Laws of Maryland read as follows:

20 **Article - Agriculture**

21 2-513.

22 (a) Agricultural land preservation easements may be purchased under this  
23 subtitle for any land in agricultural use which meets the minimum criteria

1 established under § 2-509 of this subtitle if the easement and county regulations  
2 governing the use of the land include the following provisions:

3 (1) Any farm use of land is permitted.

4 (2) Operation at any time of any machinery used in farm production or  
5 the primary processing of agricultural products is permitted.

6 (3) All normal agricultural operations performed in accordance with  
7 good husbandry practices which do not cause bodily injury or directly endanger  
8 human health are permitted including, but not limited to, sale of farm products  
9 produced on the farm where such sales are made.

10 (b) (1) ~~Except as otherwise provided in this section, a landowner, whose land~~  
11 ~~is subject to an easement, may not use the land for any commercial, industrial, or~~  
12 ~~residential purpose, EXCEPT FOR FARM AND FOREST RELATED USES AND HOME~~  
13 ~~OCCUPATIONS AS DETERMINED BY THE FOUNDATION. A LANDOWNER WHOSE LAND~~  
14 ~~IS SUBJECT TO AN EASEMENT MAY NOT USE THE LAND FOR ANY COMMERCIAL,~~  
15 ~~INDUSTRIAL, OR RESIDENTIAL PURPOSE EXCEPT:~~

16 (I) AS DETERMINED BY THE FOUNDATION, FOR FARM AND FOREST  
17 RELATED USES AND HOME OCCUPATIONS; OR

18 (II) AS OTHERWISE PROVIDED UNDER THIS SECTION.

19 (2) Except as provided in [paragraph (5)] PARAGRAPHS (3) AND (6) of this  
20 subsection, on written application, the Foundation shall release free of easement  
21 restrictions only for the landowner who originally sold an easement, 1 acre or less for  
22 the purpose of constructing a dwelling house for the use only of that landowner or  
23 child of the landowner, UP TO A MAXIMUM OF THREE LOTS, subject to the following  
24 conditions:

25 (i) The ~~total~~ number of lots allowed to be released under this  
26 section, except as provided in paragraph [(5)] (6) of this subsection, may not exceed  
27 [10] ~~3 lots of 1 acre or less at a maximum of not more than 1 lot for [each] THE FIRST~~  
28 ~~20 acres [or portion thereof] AND 1 LOT FOR EACH ADDITIONAL FULL 50 ACRES;~~

29 1. 1 LOT IF THE SIZE OF THE EASEMENT PROPERTY IS 20  
30 ACRES OR MORE BUT FEWER THAN 70 ACRES;

31 2. 2 LOTS IF THE SIZE OF THE EASEMENT PROPERTY IS 70  
32 ACRES OR MORE BUT FEWER THAN 120 ACRES; OR

33 3. 3 LOTS IF THE SIZE OF THE EASEMENT PROPERTY IS 120  
34 ACRES OR MORE.

35 (ii) The resulting density on the property may not exceed the  
36 density allowed under zoning of the property before the Foundation purchased the  
37 easement.

1 (iii) The landowner shall pay the State for any acre or portion  
2 released at the price per acre that the State paid the owner for the easement.

3 (iv) Before any conveyance or release, the landowner and the child,  
4 if there is a conveyance to a child, shall agree not to subdivide further for residential  
5 purposes any acreage allowed to be released. The agreement shall be recorded among  
6 the land records where the land is located and shall bind all future owners.

7 (v) After certifying that the landowner or child of the landowner  
8 has met the conditions provided in subparagraphs (i) through (iv) of this paragraph,  
9 the Foundation shall issue a preliminary release which shall:

10 1. Become final when the Foundation receives and certifies a  
11 nontransferable building permit in the name of the landowner or child of the  
12 landowner for construction of a dwelling house; or

13 2. Become void upon the death of the person for whose  
14 benefit the release was intended if the Foundation has not yet received a building  
15 permit as provided in this subparagraph.

16 (vi) Any release or preliminary release issued under this paragraph  
17 shall include a statement of the conditions under which it was issued, a certification  
18 by the Foundation that all necessary conditions for release or preliminary release  
19 have been met, and copies of any pertinent documents.

20 (vii) Any release, preliminary release, building permit, or other  
21 document issued or submitted in accordance with this paragraph shall be recorded  
22 among the land records where the land is located and shall bind all future owners.

23 (viii) The Foundation may not restrict the ability of a landowner who  
24 originally sold an easement to acquire a release under this paragraph beyond the  
25 requirements provided in this section.

26 (3) A LANDOWNER MAY RESERVE THE RIGHT TO EXCLUDE 1  
27 UNRESTRICTED LOT FROM AN EASEMENT IN LIEU OF ALL OWNER'S AND CHILDREN'S  
28 LOTS TO WHICH THE LANDOWNER WOULD OTHERWISE BE ENTITLED UNDER  
29 PARAGRAPH (2) OF THIS SUBSECTION, SUBJECT TO THE FOLLOWING CONDITIONS:

30 (I) THE RESULTING DENSITY ON THE PROPERTY SHALL BE LESS  
31 THAN THE DENSITY ALLOWED UNDER ZONING OF THE PROPERTY BEFORE THE  
32 FOUNDATION PURCHASED THE EASEMENT;

33 (II) AN UNRESTRICTED LOT MAY BE SUBDIVIDED BY THE  
34 LANDOWNER FROM THE EASEMENT AND SOLD TO ANYONE TO CONSTRUCT ONE  
35 RESIDENTIAL DWELLING;

36 (III) THE SIZE OF AN UNRESTRICTED LOT SHALL BE 1 ACRE OR LESS,  
37 EXCEPT AS PROVIDED IN PARAGRAPH (6) OF THIS SUBSECTION;

1 (IV) THE LANDOWNER SHALL AGREE NOT TO SUBDIVIDE FURTHER  
2 FOR RESIDENTIAL PURPOSES ANY ACREAGE ALLOWED TO BE RELEASED, AND THE  
3 AGREEMENT SHALL BE RECORDED AMONG THE LAND RECORDS WHERE THE LAND IS  
4 LOCATED AND SHALL BIND ALL FUTURE OWNERS;

5 (V) THE RIGHT TO THE LOT IS TAKEN INTO CONSIDERATION IN THE  
6 APPRAISAL OF FAIR MARKET VALUE AND DETERMINATION OF EASEMENT VALUE;

7 (VI) THE LOT CAN BE SUBDIVIDED AT ANY TIME AND THE  
8 LOCATION OF THE LOT TO BE SUBDIVIDED IS SUBJECT TO THE APPROVAL OF THE  
9 LOCAL AGRICULTURAL ADVISORY BOARD AND THE FOUNDATION; AND

10 (VII) IF THE PROPERTY IS TRANSFERRED BEFORE THE RIGHT TO  
11 EXCLUDE THE LOT HAS BEEN EXERCISED, THE RIGHT MAY BE TRANSFERRED WITH  
12 THE PROPERTY.

13 [(3)] (4) A landowner may construct housing for tenants fully engaged in  
14 operation of the farm, but this construction may not exceed 1 tenant house per 100  
15 acres. The land on which a tenant house is constructed may not be subdivided or  
16 conveyed to any person. In addition, the tenant house may not be conveyed separately  
17 from the original parcel.

18 [(4)] (5) Except as provided in paragraph [(5)] (6) of this subsection, on  
19 request to the Foundation, an owner may exclude from the easement restrictions 1  
20 acre per each single dwelling, which existed at the time of the sale of the easement, AS  
21 AN OWNER'S, CHILDREN'S, OR UNRESTRICTED LOT TO WHICH THE OWNER IS  
22 ENTITLED UNDER PARAGRAPH (2) OF THIS SUBSECTION, by a land survey and  
23 recordation provided at the expense of the owner. However, before any exclusion is  
24 granted, an owner shall agree with the Foundation not to subdivide further for  
25 residential purposes any acreage allowed to be released. This agreement shall be  
26 recorded among the land records where the land is located and shall bind all future  
27 owners.

28 [(5)] (6) (i) The restrictions of paragraphs (2) and [4] (5) of this  
29 subsection concerning maximum lot sizes are altered so that the maximum lot size is  
30 2 acres if:

31 1. Regulations adopted by the Department of the  
32 Environment require a minimum lot size for a dwelling house of not less than 2 acres  
33 in areas where there is less than 4 feet of unsaturated and unconsolidated soil  
34 material below the bottom of an on-site sewage disposal system or in areas located  
35 within 2,500 feet of the normal water level of an existing or proposed water supply  
36 reservoir; or

37 2. Regulations adopted by the jurisdiction in which the land  
38 is situated require that a lot for a dwelling house be larger than 1 acre.

39 (ii) For exclusions provided under paragraph [(4)] (5) of this  
40 subsection, the landowner shall pay the State for any acre or portion released in  
41 excess of the 1 acre per single dwelling that existed at the time of easement.

1 (c) Purchase of an easement by the Foundation does not grant the public any  
2 right of access or right of use of the subject property.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
4 October 1, 2003.